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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/629,241	07/31/2000	Maury E. Collett II	CLT-100	3877

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EXAMINER

EPPS, TODD MICHAEL

ART UNIT PAPER NUMBER

3632

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/629,241	Applicant(s) COLLETT, MAURY E.	
	Examiner Todd M. Epps	Art Unit 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) 1-13, 17, 28 and 29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-16, 18-27 and 30-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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This is the first Office Action after CEP for application serial number 09/629,241, Wiring Clip For Securing Electrical Wiring to a Framing Member, filed on July 31, 2000.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 10, 2006 has been entered.

Claim Objections

Claim 36 is objected to because: line one, "The method according to claim 36" should be -- The method according to claim 35 --.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14, 20, 24, 27, 32-34, 37, 41, and 44-47 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,821,469 to Shanmugham. The present invention reads on as follows: Shanmugham '469 teaches a method for securing electrical wiring to an elongated metal framing stud member having a face and two sides with a wiring clip. The wiring clip comprises a main body (102) being formed with a U-shaped wire receiving area, a first arm (107), a second arm (113), and a wire receiving area (near 105). The main body is formed with a wire receiving area. The first arm is located at a first end of the main body and has a first attachment means (108) for attaching the first arm to a first side of a metal framing stud member (130) having a face (parallel to the wire/cabling 120) and two sides (parallel to first and second side members 107, 113). The second arm is located at a second end of the main body and has a second attachments means for attaching the second arm to a second side of the metal framing stud member. The wire receiving area is adjacent the main body and is located between the first and second arms. Further, the wire receiving area comprises a means for closeably securing the wiring within the wire receiving area, wherein a means for closeably securing the wiring within the wire receiving area comprises a snap mechanism, and wherein a snap mechanism opens and closes the wire receiving area.

The method for securing electrical wire comprises the following steps: positioning the electrical wiring parallel to the length of the metal framing stud member. Attaching the first arm to a first side of the metal framing stud member via the first attachment means for attaching the first arm to a first side of the metal framing stud member.

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Moving the wiring clip over the metal framing stud member such that the electrical wiring is positioned within the wire receiving area. Attaching the second arm to a second side of the metal framing stud member via the second attachment means for attaching the second arm to a second side of the metal framing stud member such that the wiring positioned within the wire receiving area is centrally positioned on the face of the metal framing stud member between the first side of the metal framing stud member and the second side of the metal framing stud member. The first and second arms are in continuous contact with the first side and second side, respectively, of the metal framing stud member. The wiring is positioned within the wire receiving area is secured within the wire receiving area. The attachment means is a J-hook, wherein attaching the first arm to the first side of the metal framing member via the J-hook. The second attachment means for attaching comprises a bend in the second arm, which can be slipped around an inner edge of the second side of the framing member. The wiring clip is made of a flexible plastic.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26, and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shanmugham '469. Shanmugham '469 discloses the claim invention, except for

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the clip being made from a flexible metal. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the resilient material of the wiring clip as taught by Shanmugham '469 to have made the wiring clip from a flexible metal material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

Claims 15, 16, 18, 19, 30, 31, 35, 36, and 48-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shanmugham '469 in view of U.S. Patent No. 5,141,185 to Rumbold. Shanmugham '469 teaches the limitations of the base claim, but fails to teach the method of attaching the wiring clip to the metal framing member with screws. Additionally, Shanmugham '469 fails to teach electrical wiring secured to a two by four framing member and the location of the wiring from the first and second side of the metal framing member, respectively.

Rumbold '185 teaches securing the first arm of a wiring clip (40) to the metal framing member by screws (150, 151), wherein the first arm is thin enough not to interfere with attachment of drywall. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the wiring clip of Shanmugham '469 to be formed of flexible metal and to have modified the first and second legs of the wiring clip to be thin and further secured to the framing member with fastening screws because one would have been motivated to permit attachment of the wiring clip to metal studs without interfering with the installation of drywall as taught by Rumbold '185 (col. 8, lines 14-22). Additionally, Rumbold '185 teaches a method of

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securing electrical wiring to a two by four metal framing member comprising: positioning the wiring (39) parallel to the length of the framing member (see fig. 1) and centrally positioning the wiring on the face of the framing member, wherein the wiring is located 1 ¼ inches from the first and second sides of the framing member, and securing a first arm of a flexible, metal wiring clip (40) to the metal framing member. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have substituted a metal framing member for the wooden framing member because one would have been motivated to provide a framing member that is lightweight and further since wooden and metal framing members are well known in the framing art and the selection of any of these known equivalents would be within the level of ordinary skill in the art.

Claims 21 - 23, and 38 - 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shanmugham '469 in view of U.S. Patent No. 3,508,730 to Knezo. Shanmugham '469 fails to teach the step of compressing the wiring within the wire receiving area.

Knezo '730 discloses a wiring clip (21 – fig. 5) comprising a main body (22), a wire receiving area (the space located under 22) adjacent the main body. The first and second arms (23/24, 25) each having respective first and second attachment means, and a substantially resilient, rubber wire compression member (29) located within the wire receiving area; wherein the wiring is compressed within the wire receiving area by the compression member. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the wiring clip of

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Shanmugham '469 to include a resilient, rubber wire compression member within the wire receiving area because one would have motivated to provide a means for bearing pressure against the wiring to tightly and securely hold it against supporting member (i.e. framing member) as taught by Knezo '730 (col. 5, lines 29-35).

Claims 25, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shanmugham '469 in view of U.S. Patent No. 4,538,782 to Kirschenbaum.

Shanmugham '469 discloses the limitations of the base claim, excluding the second attachment means that can be slipped around an inner edge of the second side of the framing member. Kirschenbaum '782 discloses a wiring clip (10) attached to a framing member (11) comprising: a main body (15 generally) with a wire receiving area (22, 23), a first arm (35) having a J-hook (36) attached to a first side (13) of the framing member, and a second arm having a bend (adjacent 34) slipped around a second side (12) of the framing member. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the second attachment means to have incorporated the inner bend for the second attachment as taught by Kirshenbaum '782 because one would have been motivated to permit securement of the wiring clip to generally U-shaped framing members by providing a greater contact area.

Response to Arguments

Applicant's arguments filed January 10, 2006 have been fully considered but they are not persuasive.

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Applicant argues that Shanmugham '469 reference does not teach or suggest a method for securing electrical wiring to an elongated metal framing stud member. The Examiner clearly disagrees. Attention is directed to Shanmugham '469 reference, claims 7-9, which teaches a method for securing cables. Since the prior art structure is capable of performing the intended use, then it meets the claim.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the suggestions and motivations to combine are found in the references as cited in the rejections above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd M. Epps whose telephone number is 571-272-8282. The examiner can normally be reached on M-F (7:30-4:30).

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Todd M. Epps
Patent Examiner
Art Unit 3632
March 30, 2006


RAMON O. RAMIREZ
PRIMARY EXAMINER